

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

CHARLES DUNNING,)	
)	
Plaintiff,)	
)	
VS.)	No. 15-1058-JDT-egb
)	
JERRY VASTBINDER, ET AL.,)	
)	
Defendants.)	

ORDER DIRECTING ENTRY OF JUDGMENT,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

On March 23, 2015, Plaintiff Charles Dunning, who was, at the time, incarcerated at the Weakley County Jail in Dresden, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) After Plaintiff filed all of the necessary documents, the Court issued an order on April 17, 2015, granting leave to proceed *in forma pauperis* and assessing the civil filing fee pursuant to 28 U.S.C. §§ 1915(a)-(b). (ECF No. 7.) The order also directed Plaintiff to notify the Court immediately, in writing, of any change of address and warned that failure to do so could result in dismissal of the action without further notice. (*Id.* at 3.)

Plaintiff subsequently notified the Court of his transfer to the Bledsoe County Correctional Complex in Pikeville, Tennessee (ECF No. 9) and then to the Northwest Correctional Complex (“NWCX”) in Tiptonville, Tennessee (ECF No. 10). On March 23, 2016, the Court issued an order

ruling on various pending motions (ECF No. 12), but the copy of the order that was sent to Plaintiff at the NWCX was returned undeliverable on April 25, 2016 (ECF No. 14).

On April 14, 2016, the Court issued an order dismissing the complaint *sua sponte* pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b) but granting leave to file an amended complaint within thirty days. (ECF No. 13.) Plaintiff was warned that failure to file an amendment would result in the entry of judgment and assessment of a “strike” pursuant to 28 U.S.C. §1915(g). (*Id.* at 12.) That order has not been returned undeliverable. However, Plaintiff has not filed an amended complaint, and the time within which to do so has expired. Therefore, judgment will be entered in accordance with the April 14, 2016, order of dismissal.

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), that an appeal would not be taken in good faith. Leave to appeal *in forma pauperis* is DENIED.

For analysis under 28 U.S.C. § 1915(g) of future filings, if any, by Plaintiff, this is the first dismissal of one of his cases as frivolous or for failure to state a claim. This “strike” shall take effect when judgment is entered. *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015).

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE